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09/13/2005

FACSIMILE TRANSMISSION SHEET

TO: Ms. Latrice Sims-Rfund Branc,
Office of Finance

United States Patent &
Trademark Office

571 273 6500

FROM: Jeffrey S. Sharp

RE: Request For Refund-U.S. Patent Application Serial No. 09/889,085

PAGES (INCLUDING THIS PAGE): 16

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FAX TRANSMISSION

DATE: September 13, 2005

PTO IDENTIFIER: Application Number 09/889,085-Conf. #6842
Patent Number

Inventor: Patricia L. Conway et al.

MESSAGE TO: US Patent and Trademark Office - Refund Branch, Office of Finance

FAX NUMBER: (571) 273-6500

FROM: MARSHALL, GERSTEIN & BORUN LLP

Jeffrey S. Sharp

PHONE: (312) 474-6300

Attorney Dkt. #: 28053/38258

PAGES (Including Cover Sheet): 15

CONTENTS: Request for Refund Pursuant to 37 CFR 1.26 (12 pages)
Transmittal (1 page)
Certificate of Transmission (1 page)

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Telephone: (312) 474-6300 Facsimile: (312) 474-0448

PTO/SB/87 (08-04)

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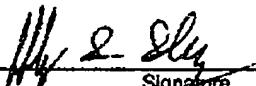
Application No. (if known): 09/889,085

Attorney Docket No.: 28053/38258

Certificate of Transmission under 37 CFR 1.8

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on September 13, 2005
Date



Signature

Jeffrey S. Sharp

Typed or printed name of person signing Certificate

31,879 (312) 474-9578
Registration Number, if applicable Telephone Number

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Request for Refund (12 pages)
Transmittal (1 page)

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

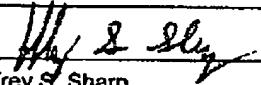
(to be used for all correspondence after initial filing)

Application Number 09/889,085-Conf. #6842 Filing Date January 9, 2002 First Named Inventor Patricia L. Conway Art Unit 1651 Examiner Name Vera Afremova	
Total Number of Pages in This Submission 	Attorney Docket Number 28053/38258

ENCLOSURES (Check all that apply)

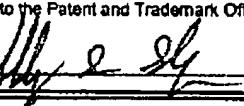
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Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MARSHALL, GERSTEIN & BORUN LLP		
Signature			
Printed name	Jeffrey S. Sharp		
Date	September 13, 2005	Reg. No.	31,879

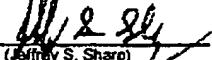
I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (571) 273-6500, on the date shown below.

Dated: September 13, 2005

Signature:  (Jeffrey S. Sharp)

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Dated: September 13, 2005 Signature:



(Jeffrey S. Sharp)

Docket No.: 28053/38258
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Patricia L. CONWAY et al.

Application No.: 09/889,085

Confirmation No.: 6842

Filed: January 9, 2002

Art Unit: 1651

For: **IMPROVED MICROBIAL PREPARATIONS**

Examiner: Vera Afremova

REQUEST FOR REFUND PURSUANT TO 37 CFR § 1.26

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: Ms. Latrice Sims - Refund Branch, Office of Finance

Dear Sir:

This paper requests a \$1,150.00 refund from the U.S. Patent and Trademark Office (PTO) in connection with the above-captioned patent application. The refund may be made by check to the address below or by refund to Deposit Account No. 13-2855.

More specifically, Applicants request a refund of \$1,150.00 charged to Deposit Account No. 13-2855 on August 8, 2005 in connection with the above-identified application. Applicants have received from the Office of Finance the paper attached as Exhibit "A" which is the first and last page of a Response filed February 22, 2005 stamped with the charges referred to above. Applicants note that fee codes 1201 and 1202 are for presentation of "extra claims."

Attached hereto as Exhibit "B" is a copy of the August, 2005 "Deposit Account Statement" for the undersigned attorney's law firm account number 13-2855, which was

Application No. 09/889,085
 Amendment dated
 First Preliminary Amendment

Docket No.: 28053/38258

retrieved today via the PTO's secure website. Page 2 of the statement identifies the following charge to the account:

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
08/09	2	09/889,085		1202	\$750.00	33,181,85
08/09	3	09/889,085		1201	\$400.00	32,781,85

Applicants note that no new claims were introduced in the Response filed February 22, 2005 and that no charge would have been appropriate at that time.

Applicants further note that no new claims were reintroduced in the Response more recently filed with the U.S.P.T.O. on August 1, 2005.

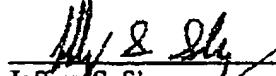
Finally, Applicants point out that new claims were presented in the application in the Amendment filed October 22, 2003 but that extra claim fees were paid at the time of filing and no further fees were due.

If the Patent and Trademark Office believes the charge was justified or if it has any questions, it is urged to contact the undersigned attorney.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN LLP
 6300 Sears Tower
 233 South Wacker Drive
 Chicago, Illinois 60606
 312-474-6300

By:


 Jeffrey S. Sharp
 Registration No. 31,879
 Attorney for Applicants

September 13, 2005

EXHIBIT A

09/07/05 11:46 FAX

1651
1651Docket No.: 28053/38258
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Patricia L. CONWAY et al. I hereby certify that this paper is being deposited with the U.S. Postal Service as First Class Mail in an envelope, postage prepaid, addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:

Serial No.: 09/889,085 February 22, 2005

Filed: January 9, 2002

For: IMPROVED MICROBIAL PREPARATIONS

Group Art Unit: 1651

Examiner: Vera Afremova

Jeffrey A. Sharp
Jeffrey A. Sharp
Registration No. 31,879
Attorney for Applicants

File only

RESPONSE UNDER 37 C.F.R. §1.111

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action of August 24, 2004 in which all pending claims (4) and 76-153) remained rejected under 35 U.S.C. §§ 102(b), and 103(a), and under the judicially created doctrine of double patenting. Reconsideration of the rejection is solicited for the reasons set out below. This response is timely filed as a petition for a three-month extension of time to February 24, 2005 is submitted herewith.

A copy of the pending Claims begins on page 2 of this paper.

Remarks/Arguments begin on page 12 of this paper.

FEE/VALUE	
ACCOUNTABILITY	
DEPOSIT ACCOUNT NO.	
13	1855
Fee	Value
Code	Purchased
1404	7504
1201	4005

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14003

Application No.: 09/889,085

Docket No.: 28053/38258

CONCLUSION

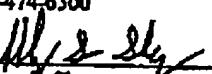
For all of the foregoing reasons, the applicants respectfully request that the rejections should now be withdrawn and an early notice of all pending claims is respectfully solicited. Should the Examiner wish to discuss any issues of form or substance in order to expedite allowance of the pending application, he is invited to contact the undersigned attorney at the number indicated below.

If there are any additional fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 13-2855. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
312-474-6300

By:


Jeffrey S. Sharp
Registration No. 31,879
Attorney for Applicants

February 22, 2005

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EXHIBIT B.



**United States
Patent and
Trademark Office**

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Deposit Account Statement

Requested Statement Month: August 2005
Deposit Account Number: 132855
Name: MARSHALL, GERSTEIN & BORUN
Attention: :
Address: 6300 SEARS TOWER
City: CHICAGO
State: IL
Zip: 60606-6402
Country: UNITED STATES OF AMERICA

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Deposit Account Statement

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Julie Burke

MarshallGerstein

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Deposit Account Statement

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<https://ramps.uspto.gov/eram/Controller;jsessionid=ramps-10300-3090:4320a041:a3f72734...> 9/8/2005

Deposit Account Statement

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08/19 140	PCT/US05/28496	30906/41460	8007	\$20.00	\$19,301.85
08/19 803	76398286	29640/60009	7004	\$450.00	\$18,851.85
08/22 3	10769744	2345.2051-004	1253	-\$20.00	\$18,871.85
08/22 6	10769744		9204	-\$390.00	\$19,261.85
08/22 43	78696488	30833/60004	7001	\$325.00	\$18,936.85
08/22 98	2663672	30069/62000	8521	\$40.00	\$18,896.85
08/22 122	10889404	3689	8007	\$20.00	\$18,876.85
08/22 128	0159700293	3691	8014	\$25.00	\$18,851.85
08/22 130	0148610355	3693	8014	\$25.00	\$18,828.85
08/22 131	0158260818	3690	8014	\$25.00	\$18,801.85
08/22 133	0159700284	3692	8014	\$25.00	\$18,776.85
08/22 149	78696549	30833/60005	7001	\$325.00	\$18,451.85
08/22 176	10545696	29729/41220	2631	\$150.00	\$18,301.85
08/22 334	11123926		8021	\$40.00	\$18,261.85
08/22 511	2368659	27295/60003	7205	\$100.00	\$18,161.85
08/22 512	2368659	27295/60003	7208	\$200.00	\$17,961.85
08/23 4	11058884	30687/40021	8021	\$40.00	\$17,921.85
08/23 45	E-REPLENISHMENT		9203	-\$14,789.15	\$32,711.00
08/23 194	78697577	61779	7001	\$325.00	\$32,386.00
08/23 203	60602785	3725	8007	\$20.00	\$32,366.00
08/23 209	10930265	3726	8007	\$20.00	\$32,346.00
08/24 14	2271221		9204	-\$200.00	\$32,646.00
08/24 68	10507653	30607/40452	8021	\$40.00	\$32,506.00
08/24 72	11208698	28967/40835A	2011	\$150.00	\$32,356.00
08/24 73	11208698	28967/40835A	2111	\$250.00	\$32,106.00
08/24 74	11208698	28967/40835A	2311	\$100.00	\$32,006.00
08/24 75	11208698	28967/40835A	2202	\$125.00	\$31,881.00
08/24 80	60673825		8021	\$40.00	\$31,841.00
08/24 112	11057962	29428/40380A	8021	\$40.00	\$31,801.00
08/24 219	2271221		6206	\$100.00	\$31,701.00
08/25 2	10190963	29473/38638	1811	\$100.00	\$31,601.00
08/25 31	PCT/US05/27902	30991/40375A	1703	\$13.00	\$31,588.00
08/25 48	29231069	30988/10000	1051	\$65.00	\$31,523.00
08/26 3	60708226	28967/41018	2085	\$125.00	\$31,398.00
08/26 17	11122875	30815/24157A	1011	\$300.00	\$31,098.00
08/26 18	11122875	30815/24157A	1111	\$500.00	\$30,598.00
08/26 19	11122875	30815/24157A	1311	\$200.00	\$30,398.00
08/26 166	11156014	29729/40363	8021	\$40.00	\$30,358.00
08/26 198	29228889		8021	\$40.00	\$30,318.00
08/26 569	76398291	29640/60010	7004	\$450.00	\$29,868.00

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Deposit Account Statement

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08/26 1240 1956212	30527/640US	7205	\$100.00	\$29,768.00
08/26 1241 1956212	30527/640US	7201	\$400.00	\$29,368.00
08/29 1 10392030	6901 P 061	1814	\$130.00	\$29,238.00
08/29 2 10392030	6901 P 061	1814	\$130.00	\$29,108.00
08/29 3 10392030	6901 P 061	1814	\$130.00	\$28,978.00
08/29 7 76278960	27428/61426	6005	\$100.00	\$28,878.00
08/29 8 76278960	27428/61426	6004	\$150.00	\$28,728.00
08/29 14 10774710	28570/39829A	2201	\$100.00	\$28,628.00
08/29 36 29224354	3727	8007	\$240.00	\$28,388.00
08/29 38 60640321	3728	8007	\$40.00	\$28,348.00
08/29 41 10924509	3729	8007	\$40.00	\$28,308.00
08/29 44 PCT/US05/25870	30412/40344A	8007	\$20.00	\$28,288.00
08/29 178 11144122	06005/40583	8021	\$40.00	\$28,248.00
08/29 351 11108930	06005/40488	8021	\$40.00	\$28,208.00
08/29 588 11112344	27656/40688	8021	\$40.00	\$28,168.00
08/30 1 10392030	6901 P 061	1814	-\$130.00	\$28,298.00
08/30 2 10392030	6901 P 061	1814	-\$130.00	\$28,428.00
08/30 5 10944272	30847/2062-001	1202	\$50.00	\$28,378.00
08/30 32 6845702		1462	-\$270.00	\$28,648.00
08/30 154 11134195		8021	\$40.00	\$28,608.00
08/30 248 78702562	30854/60000	7001	\$325.00	\$28,283.00
08/30 331 11160330		8021	\$40.00	\$28,243.00
08/30 527 10533053		9204	-\$50.00	\$28,293.00
08/30 1399 78703173	30854/60000	7001	\$325.00	\$27,968.00
08/31 11 78689892	3731	8507	\$45.00	\$27,923.00
08/31 13 78689813	3732	8507	\$45.00	\$27,878.00
08/31 13 09733490	29757-P348	1453	\$1,500.00	\$26,378.00
08/31 14 78689766	3733	8507	\$45.00	\$26,333.00
08/31 22 0148310763	3730	8014	\$25.00	\$26,308.00
08/31 23 0148310763	3730	8023	\$40.00	\$26,268.00
08/31 23 60655977	30844/30004	2085	\$125.00	\$26,143.00
08/31 24 0148310766	3730	8014	\$25.00	\$26,118.00
08/31 25 0148310721	3730	8014	\$25.00	\$26,093.00
08/31 26 0156620682	3730	8014	\$25.00	\$26,068.00
08/31 32 10161849	ARCD:257USC3	2814	\$65.00	\$26,003.00
08/31 123 11099165	29488/39802	8021	\$40.00	\$25,963.00
08/31 169 11162168	29925/40814	1011	\$300.00	\$25,663.00
08/31 170 11162168	29925/40814	1202	\$650.00	\$25,013.00
08/31 171 11162168	29925/40814	1311	\$200.00	\$24,813.00
08/31 172 11162168	29925/40814	1111	\$500.00	\$24,313.00
08/31 184 11162171	29925/41487	1011	\$300.00	\$24,013.00
08/31 185 11162171	29925/41487	1202	\$50.00	\$23,963.00
08/31 186 11162171	29925/41487	1311	\$200.00	\$23,763.00
08/31 187 11162171	29925/41487	1111	\$500.00	\$23,263.00
08/31 215 10526561	28944/41028	8021	\$40.00	\$23,223.00

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
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Julie Burke

MarshallGerstein

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Deposit Account Statement

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\$32,261.85	\$42,050.00	\$33,011.15	\$23,223.00
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1651
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Docket No.: 28053/38258
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:) I hereby certify that this paper is being
Patricia L. CONWAY et al.) deposited with the U.S. Postal Service
Serial No.: 09/889,085) as First Class Mail in an envelope,
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Examiner: Vera Afremova) February 22, 2005

 Jeffrey S. Sharp
 Registration No. 31,879
 Attorney for Applicants

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RESPONSE UNDER 37 C.F.R. §1.111

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action of August 24, 2004 in which all pending claims (41 and 76-153) remained rejected under 35 U.S.C. §§ 102(b), and 103(a), and under the judicially created doctrine of double patenting. Reconsideration of the rejection is solicited for the reasons set out below. This response is timely filed as a petition for a three-months extension of time to February 24, 2005 is submitted herewith.

A copy of the pending Claims begins on page 2 of this paper.

Remarks/Arguments begin on page 12 of this paper.

Adjustment Date: 11/08/2005 SDIRETA1
08/09/2005 DWILLIA4 00000002 132855 09889085
01 FC:1202 750.00 CR (1)
02 FC:1201 400.00 CR (2)

FEE VALUE ACCOUNTABILITY	
DEPOSIT ACCOUNT NO.	
FEES	VALUE FURNISHED
13	2855
1202	750.00
1201	400.00

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